

EXHIBIT 12

John Breslin
November 17, 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC., :
d/b/a STAR TOYOTA OF BAYSIDE, :
STAR AUTO SALES OF QUEENS, LLC, :
d/b/a STAR SUBARU, STAR HYUNDAI, : NO: 18-CV-05775
LLC, d/b/a STAR HYUNDAI, STAR : (ERK) (TAM)
NISSAN, INC., d/b/a STAR NISSAN, :
METRO CHRYSLER PLYMOUTH, INC., :
d/b/a STAR CHRYSLER JEEP DODGE, :
STAR AUTO SALES OF QUEENS COUNTY, :
LLC, d/b/a STAR FIAT, and STAR :
AUTO SALES OF QUEENS VILLAGE, :
d/b/a STAR MITSUBISHI, :
Plaintiffs, :
- vs - :
VOYNOW, BAYARD, WHYTE AND :
COMPANY, LLC, HUGH WHYTE and :
RANDALL FRANZEN, :
Defendants. :

* * *

Video recorded deposition of JOHN
BRESLIN, taken at U.S. LEGAL SUPPORT, 1818 Market
Street, Suite 1400, Philadelphia, Pennsylvania, 19103,
on Thursday, November 17, 2022, beginning at
approximately 10:36 a.m., before Lisa M. Cooper, Court
Reporter.

* * *

U.S. LEGAL SUPPORT
Northeast Processing Center
1818 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
(877) 479-2484

John Breslin
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1 you --

2 A. Either.

3 Q. -- provided services for?

4 A. New York. Obviously. Local. Maybe a couple
5 in Jersey. But, I mean, that I've been to.

6 Q. Okay. So mainly in the Philadelphia area.
7 Some in New Jersey, as well as some in New York?

8 A. Yes.

9 Q. And none outside of that area?

10 A. Not for me.

11 Q. The services that you perform -- what type of
12 services did you perform for car dealerships in
13 general? For Voynow?

14 A. Well, when I went out it was mostly -- well,
15 I would check the auto repair orders.

16 Q. So those are also called the ROs?

17 A. Yes.

18 Q. Okay.

19 A. And then some -- at some clients, I'd check
20 their receivables or payables. That's about what I
21 remember doing.

22 Q. And when you say check, what do you mean by
23 that?

24 A. So if the receivables are old, you just ask
25 the controller, or whoever's in charge, if they're

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1 going to be collected. Or if they're a payable, are
2 you going to pay them? What's the deal with it? And
3 that's basically what the whole thing consisted of.

4 Q. Okay. So you would look at the receivables
5 schedule or the payables schedule and inquire from the
6 client as to what the status was?

7 A. Yes.

8 Q. Okay. And when you got an answer, would you
9 ask the client directly?

10 A. Yes.

11 Q. Okay. And when you got an answer, what did
12 you do with that information?

13 A. Write a note next to that particular one,
14 whatever she said. Or he said.

15 Q. Okay. So on the actual physical receivable
16 schedule?

17 A. Either the schedule or the work paper. Well,
18 yeah, I would usually write it on the schedule and then
19 put it like -- on the work paper on the computer.

20 Q. Okay. And when you're talking about work
21 paper, those are the internal work papers of Voynow?

22 A. Yes.

23 Q. Okay. And were those used to generate a
24 report or a letter for the client?

25 A. I believe they did that. Yes.

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1 Q. Okay. And with respect to the ROs, what is
2 it that you would do there? You would look at the RO
3 schedule?

4 A. Yeah. I guess there was a schedule. But
5 just see what the open ones are. If there are 15 of
6 them, go check with the service shop to see if the car
7 was there. Or what the deal with it was.

8 Q. Right. Because the repair orders, those are
9 cars that came into the dealership for service, right?

10 A. Yes.

11 Q. And then the repair, you're supposed to --
12 the dealership is supposed to be paid for that, right?

13 A. Correct.

14 Q. And then you would look to see if there were
15 outstanding receivables that were owed to the
16 dealership, correct?

17 A. You mean in the ROs?

18 Q. In the ROs.

19 A. Well, I was checking to see if the car was
20 there.

21 Q. Okay.

22 A. I wasn't checking to see if it was paid. I
23 was just checking to see if it was there.

24 Q. Okay. And in terms of looking -- checking to
25 see if the car was there, would you actually like

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1 physically go onto the premises of --

2 A. Yes. To look at the VIN number. Awful. For
3 real.

4 Q. Why do you say awful?

5 A. Because if there was three of the same car,
6 you have to see if that's the VIN number.

7 Q. Okay. So you'd --

8 A. I remember that.

9 Q. You'd have to squat down?

10 A. No. You have to go like this into the damn
11 windshield. (Indicating.)

12 Q. Okay.

13 A. And look at it.

14 Q. Okay.

15 A. So, yes.

16 Q. And what was the purpose of that? To verify
17 that the car was actually on premises?

18 A. To -- just to make sure that it was -- they
19 were accounted for. That there was -- I don't know.
20 That they were there. There was no -- there wasn't
21 like a fake RO.

22 Q. Okay. It was to, I guess, check the veracity
23 of the books and records of the particular dealership?

24 MS. FITZGERALD: Objection.

25 THE WITNESS: I would say just to check

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1 to make sure that -- we did it everywhere.

2 To see if the car was there. Yeah, I guess.

3 BY MR. LABUDA:

4 Q. Okay. And with -- when you would check to
5 make sure that the car was actually there that was
6 listed on the RO schedule, what did you do with that
7 information?

8 A. Just check it. Check mark.

9 Q. Okay. That would be it? So if -- did you
10 ever run into an occasion where there were -- there was
11 not a car that was on the RO schedule?

12 A. Well, it would be on the schedule. You mean
13 that the car wasn't there?

14 Q. Yeah, I'm sorry. That the car wasn't
15 actually there.

16 A. I'm sure there was. I don't really remember
17 what exactly we did. Made a note of it. But I don't
18 really remember.

19 Q. Okay.

20 MS. FITZGERALD: You're just asking
21 generally, right?

22 MR. LABUDA: Yeah. Just general about
23 dealerships. Right.

24 BY MR. LABUDA:

25 Q. And do you have any recollection of doing

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1 anything else at the -- at car dealerships when you
2 were at Voynow? We mentioned --

3 A. Not that I remember.

4 Q. -- ROs and receivables and payables.

5 A. Not -- no.

6 Q. Okay. This would be -- this would be work
7 that you would actually do when you were physically at
8 the car dealership, correct?

9 A. Yes.

10 Q. Okay. Would there be work that you performed
11 for dealerships off premises? Like back at Voynow's
12 offices?

13 A. I put the trial balance in, math the tax
14 return. I didn't really do anything with the tax
15 return in regards to like preparing it.

16 Q. Back at Voynow's offices, would you also
17 provide your supervisors with reports, or like a
18 summary of the work that you did at a particular
19 dealership? Whether or not it was ROs or receivables
20 or payables?

21 A. I believe we would do that if -- unless if we
22 left, then it would be done and be checked the next
23 day. And if -- if we had time that day then we would
24 just do it there.

25 Q. Okay. And would you give that information to

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1 your supervisor?

2 A. I would give it to Randall Franzen. If he
3 was the guy there that was doing that.

4 Q. Okay. And do you have any recollection of
5 how many dealerships you visited when you were at
6 Voynow?

7 A. A dozen. I don't know. It's a guess.

8 Q. Okay. And do you have a recollection of the
9 names of any one of them? For instance, you went to
10 Star, correct?

11 A. Yeah. Peruzzi. I think I was at Kerbeck.
12 Runnemedede. Toyota. Mike AT & T or something. I don't
13 know. That's the wrong name probably. Sloane. I
14 don't know. There's probably more. Thompson.

15 Q. And do you have any recollection of what time
16 of year you would do that? Go to these dealerships?
17 Was there any particular time that you would go?

18 A. Depends on what it was for.

19 Q. Okay. So let's say, for instance, if it was
20 for some type of a -- a tax service that Voynow was
21 providing, was there a certain period of time that you
22 would go to the dealership?

23 A. Near the end of the year and then after.

24 Q. Okay.

25 A. Like a month later.

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1 Q. Okay. And with respect to the ROs, what is
2 it that you would do there? You would look at the RO
3 schedule?

4 A. Yeah. I guess there was a schedule. But
5 just see what the open ones are. If there are 15 of
6 them, go check with the service shop to see if the car
7 was there. Or what the deal with it was.

8 Q. Right. Because the repair orders, those are
9 cars that came into the dealership for service, right?

10 A. Yes.

11 Q. And then the repair, you're supposed to --
12 the dealership is supposed to be paid for that, right?

13 A. Correct.

14 Q. And then you would look to see if there were
15 outstanding receivables that were owed to the
16 dealership, correct?

17 A. You mean in the ROs?

18 Q. In the ROs.

19 A. Well, I was checking to see if the car was
20 there.

21 Q. Okay.

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23 was just checking to see if it was there.

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25 see if the car was there, would you actually like

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11 windshield. (Indicating.)

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17 that the car was actually on premises?

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19 were accounted for. That there was -- I don't know.
20 That they were there. There was no -- there wasn't
21 like a fake RO.

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3 BY MR. LABUDA:

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5 make sure that the car was actually there that was
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10 ever run into an occasion where there were -- there was
11 not a car that was on the RO schedule?

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13 that the car wasn't there?

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17 what exactly we did. Made a note of it. But I don't
18 really remember.

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20 or payables?

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23 day. And if -- if we had time that day then we would
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5 how many dealerships you visited when you were at
6 Voynow?

7 A. A dozen. I don't know. It's a guess.

8 Q. Okay. And do you have a recollection of the
9 names of any one of them? For instance, you went to
10 Star, correct?

11 A. Yeah. Peruzzi. I think I was at Kerbeck.
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14 don't know. There's probably more. Thompson.

15 Q. And do you have any recollection of what time
16 of year you would do that? Go to these dealerships?
17 Was there any particular time that you would go?

18 A. Depends on what it was for.

19 Q. Okay. So let's say, for instance, if it was
20 for some type of a -- a tax service that Voynow was
21 providing, was there a certain period of time that you
22 would go to the dealership?

23 A. Near the end of the year and then after.

24 Q. Okay.

25 A. Like a month later.

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1 schedules?

2 A. Yes.

3 Q. Okay. Is there anything that you did in
4 particular when you would look at these schedules? In
5 terms of like tax returns for the -- for tax services?

6 A. Yeah. The same thing we would do -- look to
7 see how old they were, if they're going to be
8 collected. Or paid.

9 Q. Okay. Would you also look at ROs as well?

10 A. I don't remember doing that there. Or at
11 that time. Maybe. I don't know.

12 Q. Okay. You have a recollection of doing
13 payables and receivables. So let me ask you this, with
14 the ROs, my understanding is that that's when you would
15 have to go out and physically go onto the lot to make
16 sure that the car was there, correct?

17 A. Yes.

18 Q. Okay. Do you have any recollection of doing
19 that in the colder months? Like in that November,
20 December, January, February, time period?

21 A. Not really.

22 Q. Okay. Do you have a recollection of looking
23 at -- doing this RO work during the, like, summer
24 months?

25 A. Yes.

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1 Q. Okay.

2 A. I mean maybe -- maybe we did. I don't
3 remember.

4 Q. Okay.

5 A. I just don't remember freezing doing it.
6 That's what I don't remember. I just remember
7 sweating.

8 Q. Right.

9 A. So.

10 Q. Right. And generally you're going to sweat
11 in the summertime, not in the wintertime, correct?

12 A. I would think.

13 Q. Okay. Did anyone at Voynow explain to you
14 why you were looking at these ROs in the summertime
15 verifying that the cars were actually on the lot?

16 MS. FITZGERALD: Object to form.

17 THE WITNESS: Just to make sure they
18 were there. Just so it wasn't just like
19 they -- a fake RO.

20 BY MR. LABUDA:

21 Q. Okay. And if there was a fake RO, what would
22 that kind of mean? What would that mean to you?

23 MS. FITZGERALD: Objection.

24 Hypothetical.

25 THE WITNESS: What would that mean to

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1 Q. All right. And when you went to -- if you
2 know there were a couple, did you physically go to each
3 one of those stores?

4 A. Each service department.

5 Q. Each service department. And that was for
6 the RO work, correct?

7 A. Yes.

8 Q. Okay. Do you have any understanding of what
9 your colleagues did at Star?

10 A. I don't know. Checked the books.

11 Q. Do you have any understanding of what the
12 purpose was to make this visit like in the summertime?

13 MS. FITZGERALD: Object to form.

14 THE WITNESS: It was an interim visit.

15 I don't know.

16 BY MR. LABUDA:

17 Q. Did you have an understanding that interim
18 visits were separate and apart from tax visits?

19 MS. FITZGERALD: Object to form.

20 THE WITNESS: Well, I would assume.

21 Because if they're in the summer. I mean,
22 wouldn't that be normal? Common sense. I
23 don't know.

24 BY MR. LABUDA:

25 Q. Well, not to a non accountant like me.

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1 MS. FITZGERALD: Objection.

2 THE WITNESS: I don't see it.

3 BY MR. LABUDA:

4 Q. Okay. And where -- where would you
5 characterize the interim visit services out of these
6 one, two, three -- five different services that are
7 listed here?

8 A. Where would I?

9 Q. Yeah, where would you put them?

10 A. Accounting and reporting.

11 Q. So the first one?

12 A. I guess I would.

13 Q. Okay.

14 A. Why does that matter, What I care, or what I
15 would say?

16 Q. You worked there, you know. You're entitled
17 to your view. So let's look at Exhibit-1.

18 A. You want this back?

19 Q. Sure. Thanks. I'm going to show you what
20 has been marked as Exhibit-1. Ask if you've ever seen
21 this document before.

22 A. Have I seen this document? No.

23 Q. Okay. Have you seen --

24 A. Something similar, yes.

25 Q. Yes. Okay. And are these the letters that

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1 the record.

2 * * *

3 (Whereupon, a short break was taken.)

4 * * *

5 THE VIDEOGRAPHER: 11:50 a.m., we're
6 back on the record.

7 BY MR. LABUDA:

8 Q. I'm showing you what's been marked as
9 Exhibit-28. Have you ever seen this document before?

10 A. Looks familiar.

11 Q. This is a list of schedules from Star
12 Chrysler Jeep Dodge and other dealerships at Star,
13 correct?

14 A. It looks like a schedule file report.

15 Q. Okay. That's what it says, right?

16 A. Yes.

17 Q. Schedule file report. For each of the
18 different dealerships, correct?

19 A. Yes.

20 Q. Would these generally get printed out at the
21 beginning of a visit in order to know what schedules
22 existed at a particular dealership?

23 A. I know schedules were printed. I don't know
24 if this was used.

25 Q. Okay. And in terms of looking at these

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1 particular, you know, schedule file reports for the
2 different dealerships, in reviewing it, does it refresh
3 your recollection, in terms of various schedules that
4 you may have looked at at Star?

5 A. I don't know what I looked at at Star.

6 Q. Yeah, what I'm asking is, now that you see
7 that there's a -- let's say a list of 18 different
8 schedules on the first page of this exhibit, does that
9 help refresh your recollection in terms of looking at
10 any other exhibits other than the -- or schedules other
11 than the ones that you've already testified to?

12 A. Maybe. Maybe. Maybe like service and parts.
13 Maybe. Maybe payables.

14 Q. Service and parts, that would be Schedule 5
15 here, right? And payables is Schedule 18, correct?

16 A. Correct.

17 Q. And do you have an understanding of, in terms
18 of reviewing a service and parts schedule, what it --
19 what it is that you would do with respect to that
20 review?

21 A. Service and parts, it would be the same thing
22 as the regular receivables. So I -- I think for
23 service and parts, there's a service and parts manager,
24 though. So if I did do that there, I think I would
25 have talked to the service and parts manager.

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1 Q. And that's in terms of looking at aged
2 receivables?

3 A. Yeah.

4 Q. Okay. And then the accounts payable, that's
5 who you -- I think you were testifying to earlier, it's
6 an -- it's an aged payable and you wanted to identify
7 whether or not that payable was actually going to get
8 paid to a particular vendor, correct?

9 A. Yes.

10 Q. Let's look at Exhibit-34.

11 * * *

12 (Whereupon, the above-mentioned document
13 was marked for identification as Exhibit-34.)

14 * * *

15 BY MR. LABUDA:

16 Q. I'm going to show you what's been marked as
17 Exhibit-34. Take a moment to look at this and let me
18 know when you've had a chance to review?

19 A. Raphael Vargas, huh?

20 Q. Blast from the past?

21 A. Var is a legend. All right.

22 Q. Okay. And I'll make a representation that
23 these were billing records that we received from
24 Voynow. You see their Bates stamp number on the bottom
25 right-hand corner, it says Voynow?

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1 notes on the -- on the schedule that -- in terms of
2 that, they were all current as per Vivian? Or any
3 notes on the actual schedule?

4 A. On the actual schedule?

5 Q. Yeah.

6 A. I don't know. I might have just took the
7 schedule to her and said what's the deal with them and
8 then she said they're current.

9 Q. Would this be a document that you would
10 create at Star's offices, or would this be a schedule
11 that you would make at -- or --

12 A. This?

13 Q. These work papers --

14 A. I would probably make it at the office.

15 Q. Okay. So --

16 A. I would -- I think. I think some places it
17 depended on the time.

18 Q. Right. But -- and if -- if you made these
19 work papers at Voynow, you had to rely on notes or
20 papers that you obtained while you were at Star in this
21 particular instance, correct?

22 MS. FITZGERALD: Objection.

23 THE WITNESS: Well, I would have notes,
24 yeah, on the paper. Or if I did it there,
25 then.

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1 BY MR. LABUDA:

2 Q. Would you -- do you have a recollection of
3 calling Vivian or Debbie?

4 A. No. Never.

5 Q. Okay. So any of the information obtained
6 here would be information that you obtained when you
7 were at Star, and then you would make these work papers
8 at --- at Voynow's offices, correct?

9 A. If we didn't have time to do it there.

10 Q. Okay. And with the schedules that you
11 reviewed, that are attended with these work papers,
12 what did you do with them? Like would you give them to
13 Randy? Would you put them in storage?

14 A. I would give them to somebody. Whoever --
15 Randy or whoever. And then they would take them back.
16 Like earlier you asked, I don't -- I never took them
17 back. So I guess they took them.

18 Q. Okay. And then let's look at the last page.
19 Sheet name 294. Again, this is another work paper of
20 yours, correct?

21 A. Yep.

22 Q. And it's for "Advance to employee", do you
23 see that?

24 A. Yep.

25 Q. Do you have any understanding what that

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1 MS. FITZGERALD: Object to form.

2 THE WITNESS: Yeah. I guess I would
3 write this up.

4 BY MR. LABUDA:

5 Q. Okay. And in terms of performing that RO
6 task, would you also speak with the service manager?
7 In this case Toyota.

8 MS. FITZGERALD: Objection to form.

9 THE WITNESS: It's either the service
10 manager or the service, like, person that was
11 in charge of that vehicle. If there was more
12 than one. There were some places that had a
13 manager, but then they also had four service
14 writers. So like, oh, no, he's in charge of
15 that person. So I would ask.

16 BY MR. LABUDA:

17 Q. Okay. And your -- one of the tasks, in terms
18 of the RO list, was to determine the status of
19 particular repair orders that hadn't been paid,
20 correct?

21 A. Well, yeah.

22 Q. And I know -- note in here that, it says,
23 "ROs aged five place days with the service advisors",
24 do you see that?

25 A. Yep.

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1 Q. All right. I'm going to show you Exhibit-21.
2 I'll ask you to take a look at this. And if you just
3 look at the first, let's say three pages, I'd say. I
4 take it back.

5 A. Second page?

6 Q. Yeah. Well, we can go page by page. If you
7 look at the second page. So this is Voynow Bates stamp
8 8783. And this is in reference to an accrued
9 commission schedule at Star Toyota. Correct?

10 A. Yep.

11 Q. Okay. And there's a column, probably like
12 five columns over. It says employee name?

13 A. Yep.

14 Q. Do you see that? At the bottom of this, you
15 see three entries that all begin with PTSN?

16 A. Yep.

17 Q. Does that look unusual to you?

18 A. I never looked at one of these schedules in
19 my life.

20 Q. Okay.

21 A. So I would not know.

22 Q. Okay.

23 A. But it's not a name. That I do know.

24 Q. Okay. Right. You don't remember looking at
25 accrued commission schedules at any dealership --

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1 A. No.

2 Q. -- is that fair? Okay. But does it stand
3 out to you as something unusual, the PTSN entries?

4 MS. FITZGERALD: Objection.

5 THE WITNESS: Well, it's not a name.

6 BY MR. LABUDA:

7 Q. Right. Would it be something that you would
8 inquire further over, since it's not names that --

9 A. Probably not. I wasn't there.

10 Q. If you -- if you did see this schedule.

11 MS. FITZGERALD: Objection.

12 Hypothetical. He wasn't there. He says he
13 didn't see it.

14 MR. LABUDA: Yeah. That's okay. He can
15 still answer.

16 MS. FITZGERALD: Object to form.

17 BY MR. LABUDA:

18 Q. That's fine.

19 A. The end of 2012. I didn't really give a shit
20 in '11, so I definitely didn't care in '12. So, yes,
21 it's not a name.

22 Q. Right. And my question is, just like with
23 the extras, would this be something that you would ask
24 questions about?

25 MS. FITZGERALD: Objection.

John Breslin
November 17, 2022

1 Hypothetical.

2 BY MR. LABUDA:

3 Q. You can answer.

4 A. Me? No. I wouldn't care. So how's that
5 answer?

6 Q. Okay. Is it fair to say that it does look
7 unusual to you, but you wouldn't have raised these
8 issues, because you didn't care?

9 MS. FITZGERALD: Objection. You're
10 totally mischaracterizing his testimony. He
11 said he never looked at accrued commissions,
12 first off. And then he said he was never
13 there in 2012.

14 MR. LABUDA: I'm not asking that
15 question now.

16 MS. FITZGERALD: Yeah, you are.

17 MR. LABUDA: I am not.

18 THE WITNESS: I said there is no name on
19 there.

20 BY MR. LABUDA:

21 Q. Right. But I'm saying --

22 A. So if Billy Blank is getting paid this, that
23 would be pretty weird. That's all -- whatever. Would
24 I look into it? Depends on how I felt that day.

25 Q. Okay. The next page after that has those

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1 Q. Okay. A few pages after that, about four
2 pages, there is a sheet name 1500, dash, 1571, do you
3 see that?

4 A. Yep.

5 Q. Okay. And this one has a WIP Mechanic Labor.
6 Do you have any understanding what that is?

7 A. It's work in progress. In process.
8 Whatever.

9 Q. Okay. Work in progress, right. And it says
10 "Balance correct per Debbie", do you see that?

11 A. Yep.

12 Q. Do you know what the process would be to --
13 to -- you know, for you to make that particular entry?
14 Would it just be as simple as looking at the balance,
15 asking Debbie, and her saying it's correct?

16 MS. FITZGERALD: Object --

17 BY MR. LABUDA:

18 Q. And that would be it?

19 MS. FITZGERALD: Object to form.

20 THE WITNESS: Going by this I asked her
21 and she said it's correct.

22 BY MR. LABUDA:

23 Q. Okay. And is it fair to say that you would
24 have had to review, in detail, each one of these
25 particular schedules in order to create these work